

SANDERS LAW GROUP

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Kevin R.C. Wilson,

Plaintiff,

v.

Fox News Network, LLC,

Defendant.

Case No:

COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff Kevin R.C. Wilson (“*Plaintiff*”), by and through his undersigned counsel, for his Complaint against defendant Fox News Network, LLC (“*Defendant*”) states and alleges as follows:

INTRODUCTION

1. This action seeks to recover damages for copyright infringement.
2. Plaintiff herein produces videos and owns the rights to these videos which Plaintiff licenses for various uses including online and print publications.
3. Defendant owns and operates a website known as www.foxnews.com (the “*Website*”).
4. Defendant, without permission or authorization from Plaintiff actively copied, stored, and/or displayed Plaintiff's Video on the Website and engaged in this misconduct knowingly and in violation of the United States copyright laws.

PARTIES

5. Plaintiff Kevin R.C. Wilson is an individual who is a citizen of the State of New York and maintains a principal place of business at 160 E.117 Street, Manhattan in New York City, New York.

6. Upon information and belief, Defendant Fox News Network, LLC, is a Delaware limited liability company with a principal place of business at 1211 Avenue of the Americas, Manhattan in New York City, New York and is liable and responsible to Plaintiff based on the facts herein alleged.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over the federal copyright infringement claims pursuant to 28 U.S.C. §1338(a) and 28 U.S.C. §1331.

8. This Court has personal jurisdiction over Fox News Network, LLC because it maintains its principal place of business in New York.

9. Venue is proper under 28 U.S.C. §1391(a)(2) because Fox News Network, LLC does business in this Judicial District and/or because a substantial part of the events or omissions giving rise to the claim occurred in this Judicial District.

FACTS COMMON TO ALL CLAIMS

10. Plaintiff is a professional videographer by trade who is the legal and rightful owner of videos which Plaintiff licenses to online publications.

11. Plaintiff has invested significant time and money in building Plaintiff's video portfolio.

12. Plaintiff has obtained active and valid copyright registrations from the United States Copyright Office (the "USCO") which cover many of Plaintiff's videos while many others are the

1 subject of pending copyright applications.

2 13. Plaintiff's videos are original, creative works in which Plaintiff owns protectable
3 copyright interests.

4 14. Fox News Network, LLC is the registered owner of the Website and is responsible
5 for its content.

6 15. Fox News Network, LLC is the operator of the Website and is responsible for its
7 content.

8 16. The Website is a popular and lucrative commercial enterprise.

9 17. The Website is monetized in that it contains paid advertisements and, upon
10 information and belief, Defendant profits from these activities.

11 18. The Website is monetized in that it functions as an intermediary and facilitates the
12 purchase of third party merchandise by the public and, upon information and belief, Defendant
13 profits from these activities.

14 19. On June 19, 2021, Plaintiff authored a video of the crash site of a police suspect's
15 vehicle after the suspect had fled as a result of several violent assaults that had been perpetrated in
16 New York City (the "*Video*"). A copy of a single still frame image from the Video is attached
17 hereto as Exhibit 1.

18 20. Plaintiff applied to the USCO to register the Video on or about July 19, 2021 under
19 Application No. 1-10673048977.

20 21. The Video was registered by the USCO on July 19, 2021 under Registration No.
21 PA 2 307 224.

22 22. On June 21, 2021 Plaintiff first observed the Video on the Website in a story dated
23 June 19, 2021. A copy of the screengrab of the Website including the same still frame image from
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1 the Video is attached hereto as Exhibit 2.

2 23. The Video was displayed at URL: [https://www.foxnews.com/us/new-york-man-](https://www.foxnews.com/us/new-york-man-stabs-another-man-in-manhattan-crashes-a-car-then-flees-on-foot-police)
3 [stabs-another-man-in-manhattan-crashes-a-car-then-flees-on-foot-police](https://www.foxnews.com/us/new-york-man-stabs-another-man-in-manhattan-crashes-a-car-then-flees-on-foot-police).

4 24. Without permission or authorization from Plaintiff, Defendant volitionally selected,
5 copied, stored and/or displayed Plaintiff's copyright protected Video as is set forth in Exhibit "1"
6 on the Website.

7 25. Upon information and belief, the Video was copied, stored and displayed without
8 license or permission, thereby infringing on Plaintiff's copyrights (hereinafter the "*Infringement*").

9 26. The Infringement includes a URL ("*Uniform Resource Locator*") for a fixed
10 tangible medium of expression that was sufficiently permanent or stable to permit it to be
11 communicated for a period of more than a transitory duration and therefore constitutes a specific
12 infringement. *17 U.S.C. §106(5); Perfect 10, Inc. v. Amazon.com, Inc.*, 508 F.3d 1146, 1160 (9th
13 Cir. 2007).

14 27. The Infringement is an exact copy of the entirety of Plaintiff's original video that
15 was directly displayed by Defendant on the Website.

16 28. Upon information and belief, Defendant takes an active and pervasive role in the
17 content posted on its Website, including, but not limited to copying, posting, selecting,
18 commenting on and/or displaying videos including but not limited to Plaintiff's Video.

19 29. Upon information and belief, Defendant directly contributes to the content posted
20 on the Website by, inter alia, directly employing reporters, authors and editors as its agents,
21 including but not limited to Paul Best whereby Defendant's Website
22 (<https://www.foxnews.com/person/b/paul-best>) list him as a "Reporter for Fox New Digital."
23 ("Employees").
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1 30. Upon information and belief, at all material times the Employees were acting within
2 the course and scope of their employment when they posted the Infringement.

3 31. Upon information and belief, at all material times the Employees were acting within
4 the course and scope of their agency when they posted the Infringement.

5 32. Upon information and belief, the Video was willfully and volitionally posted to the
6 Website by Defendant.

7 33. Upon information and belief, the Infringement was not posted at the direction of a
8 “user” as that term is defined in 17 U.S.C. §512(c).

9 34. Upon information and belief, Defendant engaged in the Infringement knowingly
10 and in violation of applicable United States Copyright Laws.

11 35. Upon information and belief, Defendant has the legal right and ability to control
12 and limit the infringing activities on its Website and exercised and/or had the right and ability to
13 exercise such right.

14 36. Upon information and belief, Defendant monitors the content on its Website.

15 37. Upon information and belief, Defendant has received a financial benefit directly
16 attributable to the Infringement.

17 38. Upon information and belief, the Infringement increased traffic to the Website and,
18 in turn, caused Defendant to realize an increase in its advertising revenues.

19 39. Upon information and belief, a large number of people have viewed the Video on
20 the Website.

21 40. Upon information and belief, Defendant at all times had the ability to stop the
22 reproduction and display of Plaintiff's copyrighted material.

23 41. Defendant's use of the Video, if widespread, would harm Plaintiff's potential market
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1 for the Video.

2 42. As a result of Defendant's misconduct, Plaintiff has been substantially harmed.

3 **FIRST COUNT**

4 ***(Direct Copyright Infringement, 17 U.S.C. §501 et seq.)***

5 43. Plaintiff repeats and incorporates by reference the allegations contained in the
6 preceding paragraphs, as though set forth in full herein.

7 44. The Video is an original, creative work in which Plaintiff owns valid copyright
8 properly registered with the United States Copyright Office.

9 45. Plaintiff has not licensed Defendant the right to use the Video in any manner, nor
10 has Plaintiff assigned any of its exclusive rights in the copyrights to Defendant.

11 46. Without permission or authorization from Plaintiff and in willful violation of
12 Plaintiff's rights under 17 U.S.C. §106, Defendant improperly and illegally copied, stored,
13 reproduced, distributed, adapted, and/or publicly displayed works copyrighted by Plaintiff thereby
14 violating one of Plaintiff's exclusive rights in its copyrights.

15 47. Defendant's reproduction of the Video and display of the Video constitutes willful
16 copyright infringement. *Feist Publications, Inc. v. Rural Telephone Service Co., Inc.*, 499 U.S.
17 340, 361 (1991).

18 48. Plaintiff is informed and believes and thereon alleges that the Defendant willfully
19 infringed upon Plaintiff's copyrighted Video in violation of Title 17 of the U.S. Code, in that they
20 used, published, communicated, posted, publicized, and otherwise held out to the public for
21 commercial benefit, the original and unique Video of the Plaintiff without Plaintiff's consent or
22 authority, by using it in the infringing article on the Website.

23 49. As a result of Defendant's violations of Title 17 of the U.S. Code, Plaintiff is entitled
24 to an award of actual damages and disgorgement of all of Defendant's profits attributable to the
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1 infringement as provided by 17 U.S.C. § 504 in an amount to be proven or, in the alternative, at
2 Plaintiff's election, an award for statutory damages against Defendant for each infringement
3 pursuant to 17 U.S.C. § 504(c).

4 50. As a result of the Defendant's violations of Title 17 of the U.S. Code, the court in
5 its discretion may allow the recovery of full costs as well as reasonable attorney's fees and costs
6 pursuant to 17 U.S.C. § 505 from Defendant.

7 51. As a result of Defendant's violations of Title 17 of the U.S. Code, Plaintiff is entitled
8 to injunctive relief to prevent or restrain infringement of his copyright pursuant to 17 U.S.C. § 502.
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10 **JURY DEMAND**

11 52. Plaintiff hereby demands a trial of this action by jury.

12 **PRAYER FOR RELIEF**

13 **WHEREFORE** Plaintiff respectfully requests judgment as follows:
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15 That the Court enters a judgment finding that Defendant has infringed on Plaintiff's rights
16 to the Video in violation of 17 U.S.C. §501 et seq. and award damages and monetary relief as
17 follows:

- 18 a. finding that Defendant infringed upon Plaintiff's copyright interest in the
19 Video by copying and displaying without a license or consent;
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21 b. for an award of actual damages and disgorgement of all of Defendant's
22 profits attributable to the infringement as provided by 17 U.S.C. § 504 in an
23 amount to be proven or, in the alternative, at Plaintiff's election, an award
24 for statutory damages against Defendant for the infringement pursuant to 17
25 U.S.C. § 504(c), whichever is larger;
26 c. for an order pursuant to 17 U.S.C. § 502(a) enjoining Defendant from any
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1 infringing use of any of Plaintiff's works;

2 d. for costs of litigation and reasonable attorney's fees against Defendant

3 pursuant to 17 U.S.C. § 505 ;

4 e. for pre judgment interest as permitted by law; and

5 f. for any other relief the Court deems just and proper.

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7 DATED: May 6, 2022

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